

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED

10-16-14
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October 16, 2014

Agenda ID #13386
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 13-10-017

This is the proposed decision of Administrative Law Judge Bushey. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's November 20, 2014 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ MARYAM EBKE for
Timothy J. Sullivan,
Chief Administrative Law Judge (Acting)

TJS:avs

Attachment

Decision **PROPOSED DECISION OF ALJ BUSHEY** (Mailed 10/16/2014)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric
Company to Update Pipeline Safety
Enhancement Plan (U39G).

Application 13-10-017
(Filed October 29, 2013)

DECISION ADOPTING SETTLEMENT AGREEMENT**Summary**

This decision approves the Settlement Agreement among Pacific Gas and Electric Company (PG&E), the Office of Ratepayer Advocates, and The Utility Reform Network and reduces the 2012 – 2014 Pipeline Safety Enhancement Plan revenue requirement. The Settlement Agreement revenue requirement reflects a further \$23 million reduction in revenue requirement from PG&E's initial proposal, which itself provided for a \$53 million reduction from the amount adopted by the Commission Decision 12-12-030:

2012 – 2014 Pipeline Safety Enhancement Plan Revenue Requirement

Adopted in D.12-12-030	PG&E's Update Application	Settlement Agreement	Adopted in Today's Decision
\$299,214,000	\$246,527,000	\$223,228,000	\$223,228,000

This proceeding is closed.

1. Background

On October 29, 2013, Pacific Gas and Electric Company (PG&E) filed its Application to Update Pipeline Safety Enhancement Plan (PSEP Update Application), as required by Decision (D.) 12-12-030, Ordering Paragraph 11, in Rulemaking (R.) 11-02-019. In the PSEP Update Application, PG&E explained that the total miles of pipeline needing replacement adopted in the 2012 decision had been reduced from 185.7 miles to 143.3 miles (including 22 miles of retirements or downrates). Similarly, the total number of miles of pipeline to be pressure tested was reduced from 783 miles to 658 miles. Several factors contributed to these reductions, most significantly was PG&E locating a valid previous pressure test record which obviated the need for another test for the pipeline. As a result of these net reductions in needed work, PG&E proposed in this Update Application to reduce its revenue requirement for the PSEP by \$52.7 million for the 2012 to 2014 period.¹

On December 6, 2013, the Office of Ratepayer Advocates (ORA) filed a protest to PG&E's PSEP Update Application. ORA's concerns included: whether the PSEP Update Application complies with D.12-12-030; whether PG&E has properly allocated costs in the PSEP Update Application between shareholders and ratepayers, as directed by the PSEP Decision; whether new projects added to the PSEP Update Application are appropriate for Phase I of the Pipeline Safety Enhancement Plan; and, whether PG&E's description of its quality assurance and quality control (QA/QC) plans and procedures comprise a QA/QC Plan that

¹ PSEP Update Application, at 2. The changes to scope are specified in detail in Tables 2-5 and 2-10 found at 8 and 9 of the Settlement Agreement.

will ensure that PG&E's Phase I PSEP work is performed to the standards required for a safe gas transmission system.²

Similarly, on December 6, 2013, The Utility Reform Network (TURN) submitted a protest to PG&E's PSEP Update Application. TURN's protests included concerns about the PSEP Update Application's scope, cost, compliance with D.12-12-030, and the accuracy of its QA/QC Plan.³

At the initial prehearing conference (PHC) on March 3, 2014, setting the procedural schedule was continued until the Commission's Safety and Enforcement Division had issued its report on PG&E's Update Application. The Division issued its Report on April 25, 2014, and convened a workshop on May 5, 2014. The Report found that PG&E's validation of Maximum Allowable Operating Pressure was generally consistent with the Commission's requirements but that PG&E has "much work" to do to improve data quality. The Report set forth conclusions and recommended actions for PG&E. PG&E served its response to the Report on May 22, 2014.

At the subsequent PHC on May 23, 2014, the parties (PG&E, ORA, and TURN (hereinafter, Settling Parties)) presented the presiding Administrative Law Judge (ALJ) with the possibility of settlement. Settlement discussions and meetings began after the May 23, 2014 PHC.

² Protest of the Office of Ratepayer Advocates, at 2.

³ Protest of The Utility Reform Network, at 5.

On July 7, 2014, the Settling Parties held a noticed Settlement Conference and filed a Joint Status Report on July 8, 2014. On July 25, 2014, the Settling Parties submitted a Joint Motion of Settling Parties for Approval of PSEP Update Application Settlement Agreement (Joint Motion). On September 25, 2014, the Settling Parties filed the Joint Motion of Settling Parties to Put Documents Related to SED Report in the Record.

2. Overview of the Terms of the Settlement Agreement

The PSEP Update Settlement Agreement among PG&E, ORA, and TURN is Attachment A to today's decision. Appendix 1 to the Settlement Agreement shows the updated and revised revenue requirement, expenses, capital expenditures, and combined expense and capital tables, Tables E-1, E-2, E-3 and E-4 from D.12-12-030.

Section IV of the Settlement Agreement sets forth the terms and conditions. In pertinent part, Section 4.1 provides that the Settling Parties have agreed that PG&E will be authorized to recover a total PSEP revenue requirement of \$223,228,000 for 2012 through 2014 through the Implementation Plan surcharge approved in D.12-12-030. This is a \$23,299,000 reduction from the PSEP Update Application proposed revenue requirement.

As set forth in the Settlement Agreement, the scope of work proposed pursuant to the PSEP Update Application will not change. The Settlement Agreement reiterates the parameters of PG&E's ability to make improvements, efficiencies and adjustments to the Implementation Plan as set provided in D.12-12-030.

Also, the Settlement Agreement in Section 4.6 specifies that the Settling Parties do not agree as to the reasonableness or appropriateness of PG&E's Quality Assurance and Quality Control processes and procedures as used for the

PSEP. Furthermore, Section 4.10 provides that the Settling Parties do not agree that PG&E's figures regarding actual costs incurred to perform the PSEP projects are accurate or complete.

In Section 4.7, the parties agree that the Safety and Enforcement Division Report, as well as PG&E's and ORA's responses, should be moved into the record. PG&E confirms that it is performing the activities designated as "Action Items" in the Divisions Report. Section 4.9 specifies certain changes to the contents of the Final PSEP Report to be served on all parties to R.11-02-109 within 120 days of the last PSEP project becoming operational.

Finally, Section VI of the Agreement contains the terms for implementing the agreement. This section requests Commission approval of capital expenditure, expense, and revenue requirement caps, which, if approved, will supersede the caps previously established by the Commission and included in Appendix E. to D.12-12-030. Revised Tables E-1, E-2, E-3 and E-4 are included with the Settlement Agreement. The parties request that the Commission approve the Settlement Agreement prior to December 1, 2014, which will allow PG&E to reflect the revised amounts in its December 31, 2014, Annual Gas True-Up filing and carried through in balancing accounts for 2015.

3. Discussion

In order for the Commission to approve any proposed settlement, the Commission must be convinced that the parties have a sound and thorough understanding of the application, the underlying assumptions, and the data included in the record. Pursuant to Rule 12.1(d), the Commission will only approve settlements if the settlement is reasonable in light of the whole record, consistent with the law, and is in the public interest. As discussed below, we find the Settlement Agreement consistent with Rule 12.1.

3.1. Reasonableness in Light of the Record as a Whole

The Settlement Agreement is reasonable in light of the record as a whole. The Settling Parties reviewed PG&E's previous PSEP Application and its PSEP Update Application and testimony. Additionally, the Settling Parties engaged each other in workshops and settlement negotiations and meetings that spanned the course of several weeks. ORA and TURN also evaluated PG&E's data request responses, and the Safety and Enforcement Division provided its report. The Settling Parties took different positions and were able to reach a compromise based on their discussions and thorough review and understanding of the record.

3.2. Consistent with law and Prior Commission Decisions

The Settlement Agreement is also consistent with law and prior Commission decisions. The issues resolved in the Settlement Agreement are within the scope of the proceeding. While the Settlement Agreement has reduced the expenses to be paid by ratepayers, it has not altered or contravened D.12-12-030. To demonstrate consistency with D.12-12-030, PG&E should include in its final PSEP Report a list of all projects deferred as specified in Section 4.5(b) of the Settlement Agreement.

3.3. The Public Interest

After weeks of discussions and good faith negotiations, the Settling Parties came to a reasonable compromise that furthers the public interest. The Settlement Agreement promotes a favorable outcome for ratepayers and public safety. Specifically, the Settlement Agreement provides for a \$23 million

reduction in PSEP expenses while not limiting the scope of work proposed in the PSEP Update Application.⁴ Moreover, by coming to a compromise, the Settling Parties avoided excess litigation over the matter and made an efficient use of time and resources.

4. Conclusion

After reviewing the Settlement Agreement and the materials and process used to reach the agreement, we find that the Settlement Agreement is reasonable in light of the record as a whole, is consistent with applicable statutes and prior Commission decisions, and is in the public interest. Therefore, we conclude that the motion for approval of the Settlement Agreement should be granted and the revisions to revenue requirement adopted.

5. Categorization and Need for Hearing

In Resolution ALJ 176-3326, dated November 14, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. On December 6, 2013, both TURN and ORA filed protests to the application. With the filing of the Settlement Agreement and supporting Joint Motion, and no other party opposing to the Joint Motion, no hearings are necessary.

6. Comments on Proposed Decision

The proposed decision of ALJ Bushey in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and

⁴ PG&E's Final PSEP Report shall include a list of all projects that fall within the terms of Section 4.5(b) of the Settlement Agreement.

Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

7. Assignment of Proceeding

Michael P. Florio is the assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

Findings of Fact

1. ORA and TURN filed protests to PG&E to PSEP Update Application.
2. PG&E, ORA, and TURN reached a compromise, embodied in the Settlement Agreement, which is Attachment A to today's decision.
3. PG&E, ORA, and TURN reviewed the PSEP Update Application.
4. PG&E, ORA, and TURN conducted workshops and settlement negotiations and meetings that spanned the course of several weeks. ORA and TURN also reviewed PG&E's data request responses.
5. The Commission's SED prepared and distributed its Report on PSEP Update Application, and conducted a workshop on the Report.
6. The Settlement Agreement provides for a \$23 million reduction in Pipeline Safety Enhancement Plan expenses while not limiting the scope of work proposed in the PSEP Update Application.
7. The Settlement Agreement results in efficient use of the parties' and Commission's time and resources.
8. PG&E, ORA, and TURN filed and served the Joint Motion of Settling Parties for Approval of PSEP Update Application Settlement Agreement.

Conclusions of Law

1. The Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest.
2. The Settlement Agreement should be approved.

3. The Joint Motion of Settling Parties to Put Documents Related to SED Report in the evidentiary record should be approved.

4. PG&E should include a list of all projects in its Final PSEP Report falling within Section 4.5(b) of the Settlement Agreement.

O R D E R

IT IS ORDERED that:

1. The July 25, 2014 Joint Motion of Settling Parties for Approval of Pipeline Safety Enhancement Plan Update Application Settlement Agreement is granted. The parties shall comply with the terms of the Settlement Agreement, which is Attachment A to today's decision. Tables E-1, E-2, E-3 and E-4 shown in Exhibit 1 to the Settlement Agreement supersede similarly numbered tables in Decision 12-12-030. Pacific Gas and Electric Company shall include in its Final Report all projects subject to Section 4.5(b) of the Settlement Agreement.

2. Pacific Gas & Electric Company must reflect the revised revenue requirement shown in Tables E-1, E-2, E-3 and E-4 in its next Annual Gas True-Up filing, and flowed through to the balancing accounts as directed in Order Paragraph 7 of Decision 12-12-030.

3. No later than 10 days after the effective date of today's decision, Pacific Gas and Electric Company shall file a Tier 1 Advice Letter revising its Gas Pipeline Expense and Capital Balancing Account to reflect the revised revenue requirement set forth in Tables E-1, E-2, E-3, and E-4. The Advice Letter will be effective upon filing.

4. As specified in Ordering Paragraph (OP) 3 of Decision 12-12-030, all revenue requirement authorized in OP 2 of today's decision is subject to refund pending further Commission decisions in Investigation (I.) 11-02-016, I.11-11-009, and I.12-01-007.

5. The Joint Motion of Settling Parties to Put Documents Related to Safety and Enforcement Division Report in the evidentiary record is granted.

6. The following three reports will be added to the evidentiary record:

1) report of the Commission's Safety and Enforcement Division dated April 25, 2014 entitled "Safety Review Report of PG&E's PSEP Update Application"; 2) Pacific Gas & Electric Company's response to the Division Report, dated May 22, 2014; and, 3) the Office of Ratepayer Advocate's letter dated June 4, 2014 to Liza Malashenko and served on the service list to this proceeding articulating ORA's concerns regarding certain conclusions in the Report.

7. No hearings are necessary.

8. Application 13-10-017 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A